

**** E-filed November 29, 2011 ****

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SALVADOR QUIROZ,

No. C11-05031 HRL

Plaintiff,

**ORDER DENYING AS MOOT
DEFENDANT'S MOTION TO
DISMISS**

v.

[Re: Docket No. 10]

BANK OF AMERICA CORPORATION;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
DOES 1-50, inclusive,

Defendants.

Plaintiff Salvador Quiroz brought suit against Bank of America Corp. and Mortgage Electronic Registration Systems, Inc. ("Defendants") in Monterey County Superior Court, alleging violations of the federal Truth in Lending and Real Estate Settlement Procedures Acts, as well as various state and common law claims for fraud, unfair competition, and unfair business practices. Dkt. No. 1; exh. A. Defendants timely removed the action to this court. Id.

Defendants filed a Motion to Dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(6) on October 20, 2011, setting a hearing for December 6, 2011. Dkt. No. 10. Quiroz filed a First Amended Complaint on November 3. Dkt No. 13. A party may amend its pleading once as a matter of course within 21 days after service of a motion under Fed. R. Civ. P. 12(b). Fed. R. Civ. P. 15(a)(1)(B). Defendants then filed a Motion to Dismiss the First Amended Complaint. Dkt. No. 17.

1 The First Amended Complaint being now the operative pleading, defendants' Motion to Dismiss the
2 original complaint is hereby DENIED as MOOT.

3 **IT IS SO ORDERED.**

4 Dated: November 29, 2011

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7 HOWARD R. LLOYD
8 UNITED STATES MAGISTRATE JUDGE
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1 **C11-05031 HRL Notice will be electronically mailed to:**

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4 **Counsel are responsible for distributing copies of this document to co-counsel who have not**
5 **registered for e-filing under the court's CM/ECF program.**

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